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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/020,033

12/06/2001

Attila D. Banki

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7590

09/29/2008

Exxon Mobil Upstream  
Research Company  
P.O. Box 2189  
(CORP-URC-SW 359)  
Houston, TX 77252-2189

EXAMINER

PROCTOR, JASON SCOTT

ART UNIT

PAPER NUMBER

2123

MAIL DATE

DELIVERY MODE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* ATTILA D. BANKI and STEPHEN C. NETEMEYER

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Application 10/020,033  
Technology Center 2100

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Mailed: September 29, 2008

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Before KRISTA ZELE, *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received at the Board of Patent Appeals and Interferences on June 30, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

**GROUND OF REJECTION TO BE REVIEWED UPON APPEAL**

A review of the file finds that the grounds of rejection to be reviewed on appeal of the claims as provided in the Examiner's Answer mailed January 24, 2008 under the heading "Grounds of rejection to be Reviewed on Appeal" is either unclear or is not consistent with the grounds of rejection of claims (i.e., Claim 44 under 112, second paragraph) set forth in the last Office action of record. The grounds of rejection to be reviewed on appeal as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Furthermore, the examiner must provide a clear statement of whether examiner agrees or disagrees with the statement of grounds of rejection to be reviewed as set forth in the brief and an explanation of any disagreement. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

A review of the Examiner's Answer finds that it is unclear what rejected claims are on appeal as compared to the Appeal Brief and/or the Examiner's Answer does not clearly address differences between rejections set forth in the Examiner's Answer and those addressed in the Appeal Brief.

Application No. 10/020,033

Clarification of the record is required for all Grounds of rejection to be reviewed on appeal for all claims.

Accordingly, it is ORDERED that the application be returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed January 24, 2008;
- 2) to generate a new Examiner's Answer setting forth the correct Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required;
- 3) and to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and
- 4) such further action as may be required.

tdl

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